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Letter dated 3 May 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 27 February 2004 (S/2004/152). The Counter-Terrorism Committee has received the attached fourth report from New Zealand submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 20 April 2004 from the Permanent Representative of New Zealand to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On behalf of my Government, I have the honour to transmit to the Counter-Terrorism Committee New Zealand's fourth report, containing responses to the questions and comments raised by the Committee regarding the measures taken by New Zealand to implement the provisions of Security Council resolution 1373 (2001) (see enclosure).

My Government remains ready to provide the Committee with any further information as may be required or requested by the Committee.

(*Signed*) Don **MacKay**
Permanent Representative

Enclosure

NEW ZEALAND RESPONSE TO THE UNITED NATIONS SECURITY COUNCIL COUNTER-TERRORISM COMMITTEE QUESTIONS FOR RESPONSE BY 30 APRIL 2004

New Zealand is fully committed to combating international terrorism in all its forms and to co-operating with the United Nations, its Member States and particularly with the Counter-Terrorism Committee established by the Security Council pursuant to Resolution 1373 to combat international terrorism.

In December 2001 New Zealand submitted a report to the United Nations Security Council Counter-Terrorism Committee setting out steps New Zealand had taken to implement United Nations Security Council Resolution 1373 (2001). In July 2002 and September 2003 New Zealand presented supplementary reports to the Counter-Terrorism Committee, which provided further information on issues addressed in the first report.

The following information is provided in response to the United Nations Counter-Terrorism Committee's request for information on priorities it has identified for New Zealand to further implement the Resolution.

Effectiveness in protection of economic and financial system

1.1 Regarding the suppression of the financing of terrorism as required by subparagraph 1 (a) of the Resolution, the CTC would appreciate receiving information as to how the FIU of New Zealand is structured and staffed (financially and technically) so as to enable them to perform their mandated functions. Please provide appropriate data in support of the response to the above inquiry.

New Zealand's Financial Intelligence Unit (FIU) is a unit within the New Zealand Police. The FIU provides Police investigators with financial intelligence on suspicious transactions and money laundering. It manages the reporting requirements of the Financial Transactions Reporting Act 1996, which facilitates the prevention, detection, investigation and prosecution of money laundering in New Zealand. The Unit is also involved in the collection, analysis and dissemination of intelligence on suspicious transaction reports and cross-border currency reports; creating and managing financial intelligence dossiers on persons about whom suspicious transaction reports or intelligence from other sources have been received; and in providing financial information about individuals and organisations that are the subject of investigation in relation to money laundering, proceeds of crime, and other serious offending and investigations in the public interest. The Unit also represents the Police on New Zealand's Financial Action Task Force, (an interagency working group which is chaired by the Ministry of Justice and was established to deal with money-laundering and related issues), and provides training and advice for staff about financial intelligence.

The FIU has an annual budget of NZ$500,000 (excluding infrastructure costs) which is funded from the Police budget. It has eight full-time staff comprising the Officer in Charge, one investigator/analyst, three tactical analysts and three collator/analysts.

The FIU has access to law enforcement, governmental and commercial databases.

1.2 Effective implementation of sub-paragraph 1 (c) of the Resolution requires States to freeze funds and other financial or economic resources related to terrorism. In this regard, does New Zealand have a separate authority or agency responsible for seizing and confiscating terrorist related assets? If the answer to the above question is in the affirmative, the CTC would appreciate receiving an outline of the legal basis for such an authority or agency, as well as an outline of its functions. Please also indicate the financial magnitude of the assets frozen due to their suspected connections with the financing of terrorism.

New Zealand does not have a separate assets recovery agency. The New Zealand Police are responsible for enforcing legislation in New Zealand that could be used to freeze funds and other financial or economic resources related to terrorism. The relevant laws are the Proceeds of Crime Act 1991, the money laundering offence in the Crimes Act 1961, the Mutual Assistance in Criminal Investigations Act 1992, the Terrorism Suppression Act 2002 and the Financial Transactions Reporting Act 1996.

To date, the New Zealand Police have not identified or had suspicions about any terrorist-related assets in New Zealand. Consequently, they have not frozen any assets that have suspected connections with the financing of terrorism.

1.3 Effective implementation of sub-paragraph 1 (d) of the Resolution requires a State to have mechanisms in place to register, audit and monitor the collection and use of funds and other resources by religious, charitable and other associations, with a view to ensuring that these are not diverted to other than their stated purposes, in particular for the financing of terrorism. The CTC would appreciate receiving a progress report on the enactment of the "Charities Commission Bill" that, as stated in the third report (at page 6), will create a registry system for charitable organisations.

The Charities Bill was introduced into Parliament on 23 March 2004. It has been referred to a parliamentary select committee, which will consider it for six months. Once the Select Committee has reported back to the House of Representatives the Bill will proceed through the final parliamentary stages (second and third readings and the Committee of the Whole). It could be enacted by 1 November 2004 depending on how quickly these processes are completed.

1.4 The implementation of paragraph 1 of the Resolution requires States to have in place effective executive machinery for the prevention and suppression of the financing of terrorist acts. In this regard, does New Zealand provide training to its administrative, investigative, prosecutorial and judicial authorities aimed at enforcing its laws in relation to typologies and trends to counter terrorist financing methods and techniques?

In the same context, does New Zealand train the said authorities in techniques for tracing property, which represents the proceeds of crime, or is to be used to finance terrorism? Please outline relevant programs and courses in place to educate New Zealand's various economic sectors as to how to detect suspicious and unusual transactions related to terrorist activities.

Administrative/Investigative

Police

The Criminal Investigations Branch (CIB) of the New Zealand Police is responsible for the investigation of terrorist financing and other terrorist offences. Qualification as a detective in the CIB involves a two and a half to three year selection, induction and qualification process. Detectives receive training on money laundering and related financial offences, and ongoing training is provided to qualified detectives.

The training of key officers is kept up to date with the latest trends and typologies in terrorist financing methods and techniques. This is reinforced through regular participation in the Asia Pacific Group on Money Laundering and FATF Typologies meetings.

Financial Intelligence Unit

Staff of the FIU also participate in the annual typologies meetings of the Asia Pacific Group on Money Laundering. The FIU also attends, where possible, the annual plenary of the Egmont Group (of FIUs).

The FIU holds an annual course on Money Laundering and Financial Crimes. This examines the trends and typologies of money laundering and terrorist financing occurring within the Asia Pacific region. The course is open to members of the Police and wider public sector agencies, and to compliance officers from private sector financial institutions. Staff from the Police, Customs Service, Department of Internal Affairs, Insolvency and Trustee Service, Department of Inland Revenue, Ministry of Agriculture and Fisheries, Ministry of Social Development, and the NZ Security Intelligence Service have attended.

Official Assignee's Office Proceeds of Crime Unit

Staff of the Proceeds of Crime Unit of the Official Assignee's Office have participated in training with New Zealand Police and have developed a training manual for staff on the legal and operational requirements of the Unit's functions under the Proceeds of Crime Act and Terrorism Suppression Act.

Customs

The New Zealand Customs Service provides training to Customs Officers working at New Zealand's airports on the operation of the border cash reporting provisions of the Financial Transactions Reporting Act. Intelligence analysts employed by the Customs Service receive advanced training which covers basic financial analysis techniques. As noted above a small number of Customs Officers also attend the annual Money Laundering and Financial Crime courses run by the New Zealand Police.

Reserve Bank

The Reserve Bank contributes policy advice and performs a liaison role on counter-terrorist financing matters. The staff members involved are trained on domestic and international counter-terrorist financing developments and on the relevant legal framework.

New Zealand Security Intelligence Service

In addition to participation in the Money Laundering and Financial Crime courses run by the FIU of the New Zealand Police, New Zealand Security Intelligence Service staff also participate in international fora aimed at countering terrorist financing.

Prosecutorial

The Crown Law Office is the agency responsible for the prosecution of serious crimes in New Zealand. Crown prosecutors in New Zealand are not involved in the investigations process and as such have not received significant training to date on issues relating to the financing of terrorism and proceeds of crime. The Crown Law Office does liaise with financial analysts and New Zealand's Serious Fraud Office in relation to tracing the proceeds of crime.

Judicial

The New Zealand judiciary is appointed from the bar after a substantial and distinguished period in legal practice. The Institute of Judicial Studies conducts training for judges. Many judges have substantial experience in aspects of criminal law prior to their appointment to the bench. No training has been provided to date specifically on the enforcement of laws relating to the financing of terrorism.

Effectiveness of counter-terrorism machinery

1.5 New Zealand's third report states (at page 4), "The Counter Terrorism Bill is currently before Parliament awaiting its second reading". The CTC would appreciate receiving a progress report on the enactment of such legislation and on New Zealand becoming a party to the two international Conventions relating to the Physical Protection of Nuclear Material (1979) and on the Marking of Plastic Explosives for the Purposes of Detection (1991).

The Terrorism Suppression Act came into force on 17 October 2002. The purpose of the Act is to make further provision for the suppression of terrorism and to implement New Zealand's obligations under the International Convention for the Suppression of Terrorist Bombings (1997), the International Convention for the Suppression of the Financing of Terrorism (1999) and United Nations Security Council Resolution 1373 (2001). New Zealand acceded to the Convention on the Physical Protection of Nuclear Material (1980) and the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) on 19 December 2003. The Terrorism Suppression Amendment Act 2003, which came into force on 18 January 2004, extended the Terrorism Suppression Act to implement New Zealand's obligations under those two Conventions.

1.6 Effective implementation of legislation covering all aspects of the Resolution requires States to have in place effective and coordinated executive machinery as well as to create and utilise adequate national and international counter-terrorist strategies. Without compromising any sensitive information, New Zealand is requested to outline how its special counter-terrorist strategies, policies and/or activities address the following areas:

- **Criminal investigation and prosecution**
- **Counter-terrorist intelligence (human and technical)**
- **Links between terrorism and other criminal activities**
- **Physical protection of potential terrorist targets**
- **Emerging threats**

The New Zealand Police have established a dedicated Strategic Intelligence Unit (SIU) to work on national security issues, and have deepened their relationship with the New Zealand Security Intelligence Service. The purpose of the SIU is to enhance understanding and capability in respect of New Zealand's domestic security environment. The SIU offers timely and relevant intelligence on terrorism and complex national and trans-national criminal offending; develops and implements strategies to prevent New Zealand and surrounding regions being used as a safe haven for terrorist activity; is involved in the designation of terrorist groups and individuals under the Terrorism Suppression Act; provides specialist tactical/operational intelligence for police programmes and events; conducts tactical intelligence probes; identifies targets that pose a risk to national security and public safety; aims to ensure that the Police are targeting areas of greatest risk and liaises with its Threat Assessment Unit. The Police have established liaison posts in Washington, London and Jakarta to contribute to the Police counter-terrorism efforts.

New Zealand's intelligence agencies have increased counter-terrorism intelligence activity and have enhanced cooperation with foreign intelligence agencies. Counter-terrorism remains the largest area of activity for the New Zealand Security Intelligence Service. Intelligence agencies have also strengthened relationships with relevant government departments to ensure, as far as possible, a whole of government approach to counter-terrorism work. The budget for the New Zealand Security Intelligence Service increased by 22 percent in the 2002/03 financial year. The extra funding was intended, in large part, to enable the Service to expand staff numbers in order to double counter-terrorist activity while maintaining the overall level of other activity.

Substantial work has been undertaken by New Zealand government agencies to investigate the links between terrorism and other criminal activities. The New Zealand Police have been at the centre of these efforts with the establishment of the Strategic Intelligence Unit and the Financial Intelligence Unit. They are also in the process of establishing the Identity Fraud Unit, which will investigate links between document fraud and terrorist activity.

The New Zealand Immigration Service has established a dedicated intelligence unit. This unit will investigate people-smuggling networks that impact on New Zealand, and will aim to strengthen immigration procedures to prevent terrorists and criminals crossing New Zealand borders. The Department of Internal Affairs is reviewing the security of the New Zealand passport with a view to strengthening security measures around its issuance.

At the regional level, each Police District has identified facilities within their locality which are deemed to be critical infrastructure, and have, in liaison with partner agencies such as local authorities, power supply companies, telecommunications companies and hospitals/health providers, developed plans around the security and protection of these facilities.

The establishment of the SIU, and the expansion of the New Zealand Security Intelligence Service, have permitted greater focus on the detection of emerging threats.

Effectiveness of customs, immigration and border control

1.7 **Effective implementation of paragraphs 1 and 2 of the Resolution requires States to take the necessary steps to prevent terrorist acts. Sub-paragraph 2 (g) seeks to prevent the movement of terrorists or terrorist groups by having in place effective customs and border controls to prohibit and suppress the financing of terrorist activities. Does New Zealand impose controls on the cross-border movement of liquid cash and negotiable instruments as well as precious stones and metals (e.g. by imposing an obligation to make a declaration or to obtain prior authorisation before any such movement takes place)? Please provide information concerning any relevant monetary or financial thresholds.**

The Financial Transactions Reporting Act requires passengers (air or sea) to make a written declaration to Customs officers if they are carrying cash in excess of NZ$10,000 on arrival in, or departure from, New Zealand. The Act specifically excludes bearer bonds, travellers' cheques, postal notes and money orders from these requirements. Travellers can be fined a maximum of NZ$2,000 for non-declaration or for making a false or misleading cash report.

The Financial Transactions Reporting Act does not allow New Zealand authorities to detain undeclared or suspicious cash carried by persons entering or exiting New Zealand. The Border Security Bill, which is currently before Parliament, would amend the Customs and Excise Act 1996 to grant Customs Officers the power to seize and detain goods for up to 21 days that are being, or are intended to be, exported from, or imported into, New Zealand and that are suspected to be "tainted property". This will enable action to be taken under New Zealand's Proceeds of Crime Act or Mutual Assistance in Criminal Matters Act. "Tainted property" will include cash and other property believed to be the proceeds of serious crime or which is used to facilitate or commit serious crime.

The Border Security Bill is aimed at strengthening border control, security measures against terrorism and other suspicious activities relating to cross-border crime.

The Terrorism Suppression Amendment Act 2003 provided the New Zealand Customs Service with the power to detain property (including cash and cash equivalents) crossing the border, which is suspected of being owned or controlled, directly or indirectly, by a designated terrorist entity (or an entity that is liable for designation as a terrorist entity under the Act). The power enables the property to be detained for an investigation period of seven days, which can be extended upon application to the High Court for a further 14 days. It does allow for the release of sufficient funds to satisfy essential human needs. If goods are found to be owned or controlled by a designated terrorist entity they can be detained by the Official Assignee at the direction of the New Zealand Prime Minister.

There are requirements under the Customs and Excise Act for certain liquid valuables such as precious metals and gems to be declared to Customs on arrival. The requirement is dependent on the nature, ownership and value of the goods in question. A formal Customs entry is required for all commercial shipments and any shipments by private importers, unless an exemption exists. Personal effects such as jewellery worn by a passenger, and in certain cases fine metals (some of which are exempt duty and Goods and Services Tax) brought in by a passenger would be examples of where formal entry is not required. Non-declaration may in certain circumstances lead to the seizure of goods. Any unusual or suspicious shipments of declared or un-declared "liquid valuables" would be documented on Customs Intelligence indices and may be passed onto the Police through well-established co-operative arrangements.

1.8 Paragraph 2 of the Resolution also requires States to prevent the movement of terrorists and the establishment of safe havens. Regarding international flights, does New Zealand compare the information contained in advance passenger manifest programs with the information contained in counter-terrorist data bases, with a view to scanning inbound passengers before they land?

The New Zealand Immigration Service operates a system called Advance Passenger Processing (APP). APP is an information sharing "hub" which allows participating airlines and governments to exchange data and validate a passenger's entitlement to travel at a single point in the journey. The New Zealand APP system works as follows:

- Passenger information (e.g. passports, visas, alert lists, lost and stolen passports etc) is regularly captured by border agencies and sent to the New Zealand APP system.
- When a passenger checks-in at the airport, the airline captures key passport details and a message is automatically transmitted to the New Zealand APP system querying if the passenger is entitled to travel.
- The New Zealand APP system then checks the information database for inwards immigration clearance. The APP returns a "Do NOT Board" or "OK to Board" message to airline check-in, and simultaneously transmits a corresponding "denied movement record" or "expected movement record" (commonly referred to as Advance Passenger Information – API) to border management systems of both the outwards and inwards countries.
- APP can also conduct in-depth passenger checks and profiles on passengers whilst a flight is en route to New Zealand. APP is connected to the New Zealand Customs Service's advanced computer system (known as CUSMOD). This system checks API against alerts and information gathered from law enforcement and intelligence agencies in other countries and multilateral organisations.

Controls on preventing access to weapons by terrorists

1.9 Effective implementation of sub-paragraph 2 (a) of the Resolution requires each Member State, inter alia, to have in place appropriate mechanisms to deny terrorists access to weapons. With regard to this requirement of the Resolution as well as to the provisions of the Convention on the Marking of Plastic Explosives for the Purpose of Detection and the International Convention for the Suppression of Terrorist Bombings, please provide the CTC with information in response to the following questions:

A) Legislation, regulations and administrative procedures

What national laws, regulations and administrative procedures exist to exercise effective control over firearms, ammunition, and explosives in the following areas:

- **Production**
- **Export**
- **Import**
- **Transit**
- **Retransfer**

Production

Except for a limited amount of ammunition, one small-scale manufacturer of firearms and a small number of ad hoc firearms manufacturers (manufacturing firearms on an occasional basis only), New Zealand does not manufacture small arms and light weapons. A person who manufactures firearms for sale must hold a dealers licence issued by the Police.

The Hazardous Substances and New Organisms Act 1996 (HSNO Act) and associated Hazardous Substances Regulations provide the legislative mechanism for the life-cycle management of explosives and the production of ammunition. Before an explosive, including ammunition, can be imported or manufactured in New Zealand it must have an approval under the HSNO Act (section 25).

Export

The main vehicle controlling the export of strategic goods from New Zealand (including small and light weapons, other firearms and explosives) is the Customs Export Prohibition Order, promulgated under the Customs and Excise Act 1996. That order requires the consent of the Secretary of Foreign Affairs and Trade for the export of items identified in the New Zealand Strategic Goods List (NZSGL) which is publicly available on www.mfat.govt.nz. The NZSGL is updated regularly to reflect changes in the various multilateral non-proliferation/export control regimes to which New Zealand belongs.

Once an export licence application is received, the Ministry of Foreign Affairs and Trade consults with relevant government departments and agencies and assesses the application in accordance with standard criteria (set out in the NZSGL). The Ministry of Foreign Affairs and Trade can ask the exporter to supply an end-user certificate (this form is also contained in the NZSGL) to help ensure that small arms and light weapons are not diverted to an end use or end-user of concern.

Import

It is an offence to import firearms or parts of firearms into New Zealand without a permit issued by the New Zealand Police. Approval is also required to import explosives under the HSNO Act (section 25). If approval to import is given, the explosives are assigned controls, which are drawn from the Hazardous Substances Regulations. A number of these Regulations apply to explosives. The most important in this context are:

- Hazardous Substances (Classes 1 to 5 Control) Regulations 2001 - these provide a system for the certification of locations where explosives may be kept and for persons who have the prescribed levels of competency and experience to handle or be in possession of explosives (the latter does not apply to ammunition but does apply to the explosive components used for the manufacture of ammunition); and
- Hazardous Substances (Tracking) Regulations 2001 – these provide a system for recording the location and movement of explosives at each stage of the lifecycle. The Environmental Risk Management Authority of New Zealand issues an import certificate for each import shipment. This certificate must then be provided to the New Zealand Customs Service. This confirms that the explosives have an approval under the HSNO Act and that the shipment can be admitted to the country. These tracking requirements do not apply to small arms ammunition and some other low hazard explosives.

The regulatory requirements set out above do not apply to explosives under the control of the New Zealand Defence Force (NZDF). The NZDF uses established Government policies and procedures to procure and import weapons, ammunition and explosives. These are always sourced from established, reputable manufacturers and suppliers. The majority of the ammunition and explosives purchased by the NZDF is sourced from the UK, Europe and North America, and is uplifted at various ports in those geographical locations by an explosives-specific vessel under charter to a reputable company, Ridgeway International. Small quantities of product imported from locations other than those above, are transported to New Zealand under the auspices of the NZDF-contracted international freight forwarder, Exel. Weapons and weapons parts, irrespective of origin, are also transported to New Zealand under the auspices of Exel.

Goods transiting New Zealand

Goods that are transhipped through New Zealand (i.e. off-loaded in New Zealand) require Customs approval before they may be loaded on the exporting ship or aircraft.

Under the Customs and Excise Act owners of ships or aircraft bringing goods into New Zealand are required to provide Customs with an electronic inward report of all goods on board. New Zealand's Parliament is currently considering an amendment to the Customs and Excise Act that will extend this requirement to include transited cargo. Information on transited cargo will be checked by

Customs for goods, such as explosives, which are subject to New Zealand's import and export prohibitions.

What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked:

- **Small and light weapons**
- **Other firearms, their parts and components and ammunition**
- **Plastic explosives**
- **Other explosives and their precursors**

Firearms

As noted above, except for a limited amount of ammunition, one small-scale manufacturer of firearms and a small number of ad hoc firearms manufacturers (manufacturing firearms on an occasional basis only), New Zealand does not manufacture small arms and light weapons. New Zealand law allows the Government to make regulations requiring that firearms be marked. Such regulations have not been put in place to date. That said, pistols, military-style semi-automatic (MSSA) firearms and restricted weapons (prescribed by the Government) must be stamped with an identifying mark when transferred from one civilian to another if the firearm in question does not already feature such a mark.

Police

The New Zealand Police do not routinely carry firearms. Small arms and light weapons may only be issued to police officers with the approval of a responsible officer in charge, in specific authorised circumstances. Police maintain detailed records of the small arms and light weapons they possess, their issue and return to storage.

NZDF

All small arms and light weapons held by the NZDF are serial numbered, usually by the manufacturer. If not numbered by the manufacturer, they are allocated an NZDF control number, and in some cases may have both. They are held on the NZDF Logistics Management System by individual serial numbers, and their location is recorded in terms of the unit to which they are issued.

At the unit level, registers are kept of every item and an individual is assigned responsibility for each weapon and for the armoury in which it is kept. Keys are controlled according to standard practice, and the armouries or containers themselves are constructed and locked in accordance with recognised international standards.

Regulations require that all weapons stores be checked during routine security patrols, that they be opened and the contents counted at specified intervals, and that a full muster be taken periodically as detailed. All weapons issued from a weapons store are signed for and strict controls exist as to who can draw them and under what circumstances. Disciplinary

action is taken against an individual found in breach of any instructions on security of weapons.
While there no requirements to mark ammunition itself, the materials and premises used to produce ammunition are subject to controls under the HSNO Act as discussed below.

Plastic Explosives, other explosives and their precursors

As noted above, the HSNO Act and associated Hazardous Substances Regulations provide the legislative mechanism for the life-cycle management of explosives. Before an explosive can be imported or manufactured in New Zealand it must have an approval under the HSNO Act . Only a few types of plastic explosive currently have such an approval. Any future requests to introduce new plastic explosives into New Zealand will only be approved under the HSNO Act if they are formulated in accordance with the UN Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) ("Plastic Explosives Convention"). Only a very small amount of (non-military) plastic explosive is currently in the country. Any that may be of older non-marked formulations would be expected to be used or disposed of within the allowable phase-in period of the Plastic Explosives Convention requirements. If during that time a more immediate problem arises with the stockpiling of unmarked plastic explosive then the reassessment provisions of the HSNO Act (ss.62-66) could be applied. This allows for the suspension of approvals and for the issuing of directions requiring the disposal of the substance. The import certificate mechanism described above could also be used to identify and prevent the further import of any currently approved, unmarked plastic explosives.

As noted above in answer to question 1.5, the Terrorism Suppression Amendment Act 2003 amended the Terrorism Suppression Act 2002 to make it an offence to possess, use, or manufacture unmarked plastic explosives, knowing they are unmarked. Under the Act, offenders are liable upon conviction to a term of imprisonment not exceeding 10 years or a fine not exceeding $500,000, or both.

B) Export control

Please describe the system of export and import licensing or authorisation, as well as any measures regarding international transit used by New Zealand for the transfer of:

- **Small and light weapons**
- **Other firearms, their parts and components and ammunition**
- **Plastic explosives**
- **Explosives and their precursors**

The main vehicle controlling the export of strategic goods from New Zealand (including small and light weapons, other firearms and explosives) is the Customs Export Prohibition Order, promulgated under the Customs and Excise Act 1996. As noted in the answer to question 1.9 (A), this Order established the New Zealand Strategic Goods List. The licensing process under the NZSGL has been spelt out in the answer to question 1.9 (A).

Detail about the procedure involved in import 'licensing' and authorisation was also addressed in answer to question 1.9 (A) above.
The transiting of explosives through New Zealand is governed by section 51 of the HSNO Act. In an application for the transhipment of munitions the Environmental Risk Management Authority would expect to be shown an "End User Undertaking" and would liaise with the Ministry of Foreign Affairs and Trade in considering the application.

The NZSGL regime covers the export of plastic explosives. Additional controls are included in the Terrorism Suppression Amendment Act 2003, which implements New Zealand's obligations under the Plastic Explosives Convention.

Please specify the export control procedures and other existing mechanisms for the exchange of information on sources, routes and methods used by traders in firearms.

Exporters of firearms are required to lodge with the New Zealand Customs Service an electronic export entry or cargo information report and a hard copy of the approval to export obtained from the Ministry of Foreign Affairs and Trade before goods may be exported from New Zealand. Further information on the New Zealand Customs Service's export control procedures is set out in the answer to the next question.

The New Zealand Customs Service receives and exchanges information in relation to firearms, their parts and components and ammunition from a wide variety of sources. This includes other Customs administrations, enforcement organisations and the World Customs Organisation.

Please advise whether it is enough to file and register, or is it also necessary to check a Goods Declaration and its supporting documents prior to the import, export or transit of firearms. Please also advise whether importers, exporters and third parties provide information to Customs prior to shipments as a routine matter, or whether they need to be encouraged in this. Please further outline any mechanism used to verify the authenticity of licensing or authorisation documents for the import, export or transit movement of firearms.

All goods imported into or exported from New Zealand are required by the Customs and Excise Act to be cleared by the New Zealand Customs Service. Customs requires import and export clearances in order to:

- Process and validate the information provided using its advanced computer system CUSMOD;
- Electronically screen the information provided by importers and exporters to identify risk shipments that may require further action;
- Enforce, using alerts on CUSMOD, a wide range of import and export prohibitions and restrictions that Customs enforces on behalf of Government departments that have policy responsibility for the controls. This includes controls on the import and export of firearms, explosives, and goods subject to United Nations sanctions;
- Provide assurance to our trading partners about the security of New Zealand exports;

- Provide import and export data to Statistics New Zealand to compile overseas trade data.

Cargo that is identified as being of interest to Customs is held for the production of documents or physical inspection as required. Customs is in the process of purchasing x-ray equipment, which will also be used to examine cargo.

Further information on the clearance of goods is set out below.

Goods exported from New Zealand

All goods exported from New Zealand must be electronically cleared with Customs prior to export, or before they can be loaded on to the ship or aircraft for export. An electronic export entry or a cargo information report (ECI) must be lodged with and cleared by Customs before the goods are loaded for shipment from New Zealand. Export entries constitute a legal declaration under the Customs and Excise Act 1996. It is an offence under the Act to make an erroneous or false entry or ECI report.

Alerts on Customs' computer systems hold shipments of firearms until the exporter produces an approval to export issued by the Ministry of Foreign Affairs and Trade.

Goods Imported into New Zealand

Importers of goods into New Zealand are required to lodge an electronic import entry (a declaration under the Customs and Excise Act) with Customs. The entry covers the particulars of goods, and, where required, details of import permit requirements and the payment of any revenue charges. Alerts on the Customs computer system hold shipments of firearms until the importer has produced a valid permit to import issued by the New Zealand Police under the Arms Act 1983.

Importers may lodge import entries under the Customs and Excise Regulations 1996 prior to the goods' arrival in New Zealand. For goods imported by sea the entry must be lodged not more than five days before the date of importation and by air not more than one day before the date of importation. Approximately 80% of import entries are lodged before goods are imported into New Zealand. In all cases the import entry must be lodged within 20 days of the goods being imported into New Zealand.

Goods transiting New Zealand

Goods that are:

(a) Transhipped through New Zealand i.e. off loaded in New Zealand, require Customs approval before they may be loaded on the exporting ship or aircraft;

(b) Transited through New Zealand (i.e. remain on board the ship or aircraft) are not currently monitored. However, the New Zealand Parliament is currently considering an amendment to the Customs and Excise Act 1996 which will require the owner of the ship or aircraft to provide Customs with an electronic inward report of all goods on the ship or aircraft. The inward report is also being extended to include transited cargo. Information on transited cargo will be checked by Customs computer system for goods such as firearms, which are subject to New Zealand's import and export prohibitions.

Verification of Documents

Every individual who wishes to lodge electronic import and export clearances must apply to Customs to be registered to do so. Approved applications are issued with a Customs declaring code and a Unique User Identifier (UUI). The UUI is issued to an individual and identifies the person responsible for lodging an electronic clearance. It is considered to be their electronic signature.

The importer or exporter named on the clearance document must also hold a Customs client code. Customs validates the information provided by the applicant before issuing a client code.

Importers and exporters of firearms are required to produce to Customs the original copy of the approval to import or export. These documents are checked against information that has been provided to Customs to clear the goods. Any queries on the validity of approval to import or export firearms are referred to the New Zealand Police or the Ministry of Foreign Affairs and Trade respectively.

Has the New Zealand Customs Service implemented an intelligence-based risk management system on its borders to identify high-risk goods? Please outline the data required by the Customs Administration in order to identify a high-risk consignment prior to shipment.

The New Zealand Customs Service has developed an intelligence-based risk assessment system to identify at its borders goods which are of high risk to New Zealand and its trading partners. This system utilises risk assessments prepared by Customs' Intelligence Division. The data required by Customs to identify a high risk consignment includes the nature of the goods e.g. firearms, the country the goods are being imported from or exported to, previous interceptions of such goods, details of parties involved in the shipment (importer, exporter, supplier etc) and information from overseas enforcement agencies.

C) Brokering

What national legislation or administrative procedures exist to regulate the activities of those who engage in firearms and explosives brokering within national jurisdiction and control? Please outline the relevant procedures with regard to the registration of brokers, and the licensing or authorisation of brokering transactions?

There are few firearms brokers based in New Zealand and there are no specific controls on brokering. However, as brokers are considered to offer firearms for sale they are caught by the regulations covering firearms dealers.

No person is allowed to set up business selling, or manufacturing for sale, firearms, airguns, pistols or restricted weapons without a licence issued by the New Zealand Police. Those licenses must be endorsed to allow possession of pistols, MSSA firearms or restricted weapons if the business concerned deals in those items. Examples of the controls on dealers' activities include:

- Employees and agents of dealers must be firearms licence holders and those licences must also be endorsed if in the course of their duties they are to come into possession of pistols, MSSA firearms or restricted weapons;
- Dealers must keep records of all firearms coming into their possession and details of transfers to customers;
- Provision for New Zealand Police to audit the records of dealers; and
- Controls that ensure firearms are securely stored.

Maximum penalties for illicit dealing activities include:

- 3 months' imprisonment or a fine of up to NZ$1,000 or both for selling a firearm to an unlicensed person or dealer;
- a fine of up to NZ$1,000 for supplying ammunition to someone who is not a holder of a firearms or dealers licence; and
- 3 years' imprisonment or a fine of up to NZ$4,000 for selling or supplying a pistol, MSSA firearm or restricted weapon to a person who doesn't hold a permit to import/procure that weapon.

The brokering of explosives is not specifically dealt with under the HSNO regime. A broker may apply for the authorisation of a new explosive or apply for an import certificate for a shipment of an approved explosive on behalf of the person the explosives are intended for (for example, import certificate applications are regularly submitted by customs brokers). However, transactions undertaken by brokers are treated as they would be if the intended user/receiver of the explosives was to undertake the transaction. The procedures that apply are the same as if the person who was to receive the explosives made the application, and are as described above in answer to question 1.9 (A). If the broker is not taking possession of the explosives personally, then the broker, or his or her premises, is not required to be certified as described above.

Do New Zealand's laws require the disclosure of the names and locations of brokers involved in the transaction when completing import and export licences, authorisations or accompanying documents?

All firearms dealers in New Zealand, including brokers importing firearms into New Zealand, must be licensed. They are required to provide personal details in their application for an import licence.

Brokers seeking to import explosives are required to apply for an import licence certificate, regardless of whether they are the intended user/receiver of the explosives. They are required to provide personal details and the proposed place of storage for the explosives of their arrival in New Zealand.

With regard to applications received by MFAT to export goods contained within the NZSGL, New Zealand law does not currently require the disclosure of the names and locations of brokers involved in the transaction.

Do legal provisions in place allow for the sharing of relevant information with foreign counterparts to enable cooperation in preventing illegal shipments of firearms, their parts and components, and ammunition, as well as explosives and their precursors?

Section 281 of the Customs and Excise Act specifically allows for the exchange of a wide range of information with overseas law enforcement agencies. At present, this requires written agreements with those agencies. New Zealand Customs has signed agreements with a number of its key Customs counterparts, including those in Australia, USA, UK, Canada, Hong Kong and China. Further agreements are currently being negotiated. However, the Border Security Bill (referred to in the answer to question 1.7 above), will amend section 281. If passed, this amendment will allow for the exchange of information (subject to certain conditions) in the absence of a written agreement. This change will provide an even greater degree of flexibility in terms of liaison and cooperation with overseas agencies.

New Zealand also shares relevant information with foreign counterparts through organisations such as the Oceanic Customs Organisation (OCO). OCO members submit reports of seizures, methods of transportation and methods of detection to the Intelligence Section of the New Zealand Customs Service, which updates Customs Regional Intelligence Network (CRIN) data and publishes a quarterly bulletin. CRIN provides an overview of trafficking patterns in the region.

The New Zealand Customs Service also has access to the Customs Asia Pacific Enforcement Reporting System (CAPERS). CAPERS is an international information and reporting system which is used in a number of OCO member countries throughout the Pacific region. CAPERS has been developed by the United States Customs Service.

Information sharing and cooperation with authorities in Pacific Island countries may take place when MFAT is assessing an application to export goods to the Pacific region made under the NZSGL regime. MFAT may request information on:

1 the attitude of the importing country to the import;

2 the current political/security situation of the importing country;

3 the degree to which the importing country can scrutinise and monitor the proposed imports;

4 the nature and character of the proposed end-use and user; and

5 other relevant information.

D) Stockpile management and security

Please outline the legal provisions and administrative procedures in New Zealand that provide for the security of firearms, their parts and components, ammunition and explosives and their precursors at the time of manufacture, import, export and transit through its territory.

The primary focus of firearms control in New Zealand is on the lawful possession and use of firearms through licensing individuals. No civilian is allowed to possess a firearm unless he or she is over the age of 16 years and has a firearms licence issued by the Police. A person

wishing to hold a firearms licence is required to go through a vetting process that includes, but is not limited to, a criminal record and Police intelligence information check; face to face interviews with the applicant, their spouse/partner/next of kin and an unrelated referee; and any other inquiries Police consider required. Licence holders are required to secure firearms, and the physical inspection of security is a key part of the vetting process. Those wishing to possess pistols, restricted weapons or MSSAs undergo additional vetting processes and may only use these particular firearms under prescribed circumstances.

In order to lawfully possess pistols, MSSA firearms and restricted weapons an endorsement on a firearms licence is required. Such endorsements set conditions on possessing these firearms and require the holder to demonstrate specific cause to own. Civilian ownership of pistols, MSSA firearms and restricted weapons must be registered.

The main control over the security of explosives, ammunition and their precursor hazardous substances is the HSNO Act and regulations promulgated under it, as discussed above in question 1.9 (A).

What national standards and procedures exist for the management and security of firearms and explosives stocks held by the government of New Zealand (in particular, held by its armed forces, police etc) and other authorized bodies?

All public authorities except the New Zealand Defence Force are bound by the provisions of the HSNO Act and are required to comply with the measures described above. The NZDF has separate control procedures that meet the same standards. This includes the management of all ammunition and explosives for which it is responsible.

Section 3(3) and 3(5) of the HSNO Act require the Chief of Defence Force to develop Codes of Practice for Hazardous Substances which meet or conform to the requirements prescribed by Regulation.

The principal NZDF code of practice, Defence Force Order 53, is about to be promulgated to provide direction to all NZDF organisations responsible for hazardous substances. This incorporates the International Codes of Practice listed below. It covers a range of topics relating mainly to the management of explosives safety during storage and use, but provides direction on many other aspects of explosives management.

In the event of any conflict between DFO 53 and the International Codes of Practice DFO 53 takes priority followed by the latest version of the publications in the order listed:

a. NATO AASTP-1 (explosives storage)

b. Land Transport Rule: Dangerous Goods 1999 (transport on land)

c. International Maritime Dangerous Goods Code

Explosives Transportation

The procedures for management and security of NZDF ammunition and explosives during transportation is covered in DFO 36 Chapter 4 Section 4. Supporting regulations for DFO 36 in respect to ammunition and explosives are:

a. Manual of NATO Safety Principles for the Storage of Military Ammunition and Explosives (AASTP-1)

b. Manual of NATO Safety Principles for the Transportation of Military Ammunition and Explosives (AASTP-2)

c. UN Transportation of Dangerous Goods Model Regulations

d. International Air Transport Association (IATA) Dangerous Goods Regulations

e. International Maritime Dangerous Goods (IMDG) Code

f. NZS 5433:19999 Transportation of Dangerous goods on Land

g. Explosive Regulations made in accordance with section 75 of the HSNO Act 1996.

The Single Service regulations applicable to NZDF ammunition and explosives during transportation within New Zealand are:

a. Royal New Zealand Navy:

    1. BR 862 Royal Navy Magazine and Explosives Regulations are applied to HMNZ ships.

b. New Zealand Army:

    1. UK Army Ammunition and Explosives Regulations (Land Service), Volume 1, Pamphlet No. 7 – Movement of Ammunition (Army Code No. 61569)
    2. NZ Army P95 – Unit Storage, Handling of Movement and Ammunition
    3. DFO (A), Volume 4, Support Matters
    4. DFO (A), Volume 7, Transport Movement and Catering

c. Royal New Zealand Air Force:

    1. NZ Air Publication 3150 Manual of Air Movement Volumes 1 and 2
    2. Royal Air Force Explosives Regulations, AP110A-0102-1

When hazardous materials are handed over to civilian transport operators for conveyance, they become subject to a range of statutory provisions in different legislation governing the safe passage of hazardous materials.

Weapons Transportation

The procedures for management and security of NZDF weapons during transportation are covered in DFO 36 Chapter 4 Section 5.

Weapons and Explosives Security

Physical Security of NZDF weapons and explosives is governed by DFO 51 (1) Part 3 Chapter 5 and supporting regulations.

Has New Zealand implemented, using risk assessment principles, any special security measures on the import, export and transit of firearms, such as conducting security checks on the temporary storage, warehousing and of transport of firearms? Are persons involved in these operations required to undergo security vetting? If yes, please give details.

All goods imported, exported and in transit through New Zealand are subject to Customs control. These goods may not be removed from a Customs Controlled Area (an area licensed by Customs) except with approval from the New Zealand Customs Service.

Included in the conditions of a Customs Controlled Area are the requirements that all goods including firearms must be kept in a secure environment, and that personnel are subjected to security checks.

E) Law enforcement/illegal trafficking

What special measures are used by New Zealand to prevent and suppress illegal trafficking in firearms, ammunition and explosives, likely to be utilised by terrorists?

Illegal trafficking in firearms, ammunition and explosives is covered by the general laws which restrict the trade, importation and exportation of these goods (outlined in the answers to previous questions).

Do New Zealand's law enforcement agencies cooperate with the INTERPOL system of tracking in firearms and explosives?

The New Zealand Police has a very active Interpol Office. New Zealand mutual assistance and privacy legislation allows for the sharing of information for criminal investigation purposes with requesting states.

F) National point of contact

Does New Zealand have a national point of contact to act as liaison with other States on matters relating to the prevention of access to weapons by terrorists? If so, please give details.

There is no point of contact specifically designated for this purpose.

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Security Council

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Letter dated 6 May 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 April 2003 (S/2003/437). The Counter-Terrorism Committee has received the attached third report from Andorra submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-34880 (E) 140604 170604

Annex

Letter dated 3 May 2004 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

At the request of my Government, I have the honour to transmit to you in your capacity as Chairman of the Counter-Terrorism Committee the third report submitted by the Principality of Andorra to the Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government will be happy to provide the Committee with additional information, as necessary.

(*Signed*) Julian **Vila-Coma**
Ambassador
Permanent Representative

Enclosure

[Original: French]

Responses to the comments and questions concerning the content of the third report submitted pursuant to Security Council resolution 1373 (2001)

In accordance with its obligations under paragraph 6 of Security Council resolution 1373 (2001), the Andorran Government submitted a detailed report on 21 December 2001. In response to the request of the Committee contained in its letter of 1 April 2002, a supplementary report providing additional information on a number of issues addressed in the first report was submitted on 10 September 2002.

The present report, which is the third report submitted by the Andorran Government, responds to the questions raised by the Committee in its letter of 7 April 2003.

Once again, the report has been prepared in close collaboration with all the Ministries concerned, namely, the Ministry of Finance, the Ministry of the Interior and Justice and the Ministry of Foreign Affairs, and with the participation of the Money-Laundering Prevention Unit.

We remain entirely at the disposal of the Counter-Terrorism Committee and will be happy to provide the Committee with any additional information that may be necessary.

1.2. The Committee would appreciate receiving an outline and a progress report on the enactment of the proposed revised Code criminalizing the financing of terrorism in all its aspects.

The parliamentary committee responsible for preparing the complete revision of the Penal Code has not yet completed its work.

1.3. The Committee noted from the first and supplementary reports that Andorra had imposed extensive reporting obligations in regard to suspicious transactions and would like to know the penalty for failure to comply with those obligations.

Articles 58 and 59 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime set out the administrative responsibilities and the corresponding penalties imposed by the Andorran Government on the recommendation of the Money-Laundering Prevention Unit, which are applicable without prejudice to criminal liability.

Thus, offences are classified as follows (serious, ordinary and minor):

1. Serious offences:

(a) Failure of those subject to the reporting obligation to comply with it;

(b) Violation of the prohibition contained in article 49, according to which individuals and third parties affected by the report may not, under any

circumstances, be informed of its existence or receive any information about the proceedings under way;

(c) Refusing, resisting or finding excuses for failing to provide the Money-Laundering Prevention Unit with the information referred to in article 51 (b), which provides that those subject to the reporting obligation must, in the exercise of their duties, supply all the information requested, except for the cases mentioned in the last paragraph of article 45, which provides that a number of individuals (external accounting professionals, tax advisers, notaries and other independent legal professionals) shall not be subject to the obligations set out in the Act in respect of:

- Information received by one of their clients or obtained about one of their clients which determines the legal status of that client;
- The preparation of the defence or representation of the client in legal proceedings or in relation to such proceedings, including advice regarding engagement in or possible avoidance of proceedings, regardless of whether or not such information was received or obtained before, during or after those proceedings;

(d) Subsequent commission of an ordinary offence in the course of the same year.

2. Ordinary offences:

(a) Failure to verify the identity of clients in accordance with the provisions of article 51 (c) or failure to request the documents required by that article;

(b) Inadequate verification of the identity of the genuine beneficiary of the transaction, which must be carried out pursuant to article 51 (d);

(c) Failure to monitor and verify identities as provided for in article 51 (e);

(d) Failure to keep documents for the period established in article 51 (f);

(e) Lack of suitable and adequate monitoring and internal communication procedures to prevent money-laundering operations, and failure to conduct the specific audit referred to in article 54;

(f) Subsequent commission of a minor offence in the course of the same year.

3. Minor offences:

(a) Failure to notify the Money-Laundering Prevention Unit of empowered individuals, as provided for in article 48;

(b) Any violation of the provisions of the Act not covered by the preceding paragraphs.

Minor offences are punishable by a written warning and a fine of between 600 and 6,000 euros.

Ordinary offences are punishable by the imposition of a ban on certain financial or commercial transactions (for instance, certain professionals will be prohibited from establishing companies, insurance companies will be prohibited from suggesting financial products such as risk or capital insurance and real estate agents will be prohibited from processing cash transactions in respect of sales and

purchases) and/or the temporary suspension of the directors of the establishment or the professional in question, for from 1 to 6 months, and a fine of between 6,000 and 60,000 euros.

Lastly, serious offences are punishable by the temporary (for up to three years) or permanent suspension of the directors of the establishment or the professional in question and a fine of between 60,000 and 600,000 euros.

In order to distinguish between offences within the defined limits, account must be taken of the gravity of the case, the lack of monitoring, gaps or inadequacies in forecasting mechanisms and the intentionality or degree of negligence involved.

In addition, failure to respect the reporting obligation in respect of suspicious transactions is regarded as a serious offence punishable by the temporary or permanent suspension of the directors of the establishment or the professional in question and a fine of between 60,001 and 600,000 euros, without prejudice to any criminal liability.

1.4. Articles 38 and 47 of the Penal Code do not appear to provide for freezing of funds that are:

- **held in the names of entities and persons identified in lists, such as those approved for the purpose of Security Council resolution 1267 (1999), as being linked to terrorist activities;**
- **of legal origin but used for terrorism either within or outside the territory of Andorra; or**
- **reasonably suspected of links to terrorist acts.**

What is the time period within which Andorra can freeze the funds or other economic resources linked to terrorism? Please provide a detailed outline of legal provisions which fully meet the requirements of this subparagraph or, in their absence, an indication of what action Andorra intends taking in this regard.

The Andorran Government would like to point out that article 47 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime (hereinafter referred to as "the Act") provides that the Money-Laundering Prevention Unit may provisionally block a transaction if it considers such action to be justified by the evidence. However, a distinction must be made between the concept of clues, representing only items of evidence, such as an act, event, object or trail which points to the existence of a fact that must be proved, and the concept of proof, which is far more difficult to establish and requires the demonstration of the existence of the fact or act in the manner prescribed by law.

Article 51 of the Act provides that those bound by it have an obligation to monitor all transactions that, although not suspicious, take place under complex or unusual circumstances and seem to have no economic justification or legal purpose, in particular transactions likely to involve money-laundering and those requiring special monitoring according to the non-restrictive official communications issued by the Money-Laundering Prevention Unit.

Furthermore, the Unit uses those official communications to provide approved lists of entities or individuals regarded as having links to terrorist activities, in order to comply with the various Security Council resolutions. If one of the subjects having an obligation under the Act has reason to suspect that a transaction may be linked to one of the entities or individuals listed in the official communications, that transaction is blocked by the Unit and the corresponding file is subsequently transmitted to the Public Prosecutor.

The Andorran Government is transmitting to the Committee, in a confidential annex, the official communications relating to the Security Council resolutions, together with all the other official communications of potential interest.

With regard to the time period within which Andorra can freeze the funds or other economic resources linked to terrorism, the various processes that may result in the freezing of funds must be dealt with separately.

The Unit requests the blocking of a financial transaction as soon as it receives a report of a suspicious transaction. This prevents clients from making use of the funds until they are authorized to do so by a court. However, the file is transmitted to the office of the Public Prosecutor, which sends it on to the *Batlle* (Andorran court), a process which may take several hours.

In addition, a commission rogatory or an investigation may be initiated on an urgent basis through Interpol. In that case, the Andorran police refers the case to the *Batlle*, which may, depending on the urgency, the importance and the imperatives of the case, decide to freeze the funds immediately.

1.5. Does the law in question impose a requirement for audit of associations and submission of the annual audited balance sheets to the relevant authority?

Article 29 (4) of the Associations Organization Act of 29 December 2000 provides that associations receiving public subsidies must account for the use of those subsidies to the awarding body.

In cases where subsidies have been misused, the awarding body, in accordance with the terms and conditions of the award, requests the beneficiary association to return the subsidy, without prejudice to any liability.

Article 28 (2) of the Act provides that the Andorran Government may prescribe, by means of regulations, additional accounting responsibilities incumbent on associations receiving public subsidies.

To that end, the Rules of Procedure Governing the Award and Monitoring of Public Subsidies and Transfers of 12 July 2000 sets forth the obligations incumbent upon beneficiaries of public assistance.

First, article 6 (3) of the Rules of Procedure provides that associations must submit to the checks carried out by the awarding body or its partners and to the controls established by the Office of the Financial Controller.

That Office is therefore responsible for monitoring subsidies in order to control all public assistance and ensure that the legal provisions applicable to each case are respected.

The objectives of that monitoring are as follows:

(a) To verify the extent to which the general objectives of the publicly funded body or entity are attained;

(b) To verify the existence of the stated objectives and the applicable criteria for the award of subsidies, ensuring that they are clearly and unequivocally defined and in keeping with the applicable legislation;

(c) To show that the administrative management procedures have been implemented rationally and appropriately with a view to the efficient use of available resources, and that the applicable standards, whether general or specific, have been observed;

(d) To verify that the available resources have been used in an effective, efficient and economical manner;

(e) To verify that the amount of the subsidy, taken alone or in conjunction with other subsidies, regardless of their origin, does not exceed the cost of the measures for which the beneficiary requested the subsidy.

Article 15 (3) of the Rules of Procedure sets out the various entities and individuals subject to monitoring by the Office of the Financial Controller. Collaborating entities, beneficiaries and third parties connected with the purpose of the subsidy are also subject to such monitoring and have an obligation to assist the Office in the exercise of its functions. In respect of the award of subsidies to collaborating entities, monitoring may extend to third party individuals linked to the natural or legal persons involved in the process of justifying the use of public funds.

Secondly, the Rules of Procedure provide for two levels of monitoring: internal monitoring covers all the measures taken by the awarding body, including the inspection at all stages from the creation of the file to the award of the subsidy and its payment, with the exception of individual subsidies, which are not subject to prior scrutiny before their approval. External monitoring, on the other hand, deals primarily with the beneficiaries, collaborators and third parties and makes it possible to verify:

(a) That the beneficiary's expense accounts reflect the movements of the subsidy;

(b) Bank statements;

(c) Documentation in the name of the beneficiary justifying the use of the subsidy;

(d) Calculations.

Third parties may also be questioned about their participation or in order to verify the authenticity and validity of the justificatory documents submitted. The physical examination of the object of the subsidy, if possible, is taken into consideration and documentation relating to any additional assistance must also be submitted.

Lastly, article 17 of the Rules of Procedure provides that the Office of the Financial Controller is empowered to prepare an annual audit plan for assistance awarded, which must include the financial controls developed during each accounting period. The Office can, at any time during the accounting period, modify

the plan if it considers that one of the original controls should be eliminated or that a new control not provided for in the plan is necessary.

1.6. The Committee would like to know how Andorra proposes to meet the requirements set forth in article 2 (a), which requires each Member State to criminalize recruitment in its territory to terrorist groups operating either inside or outside its territory.

In addition to the provisions of criminal law, described in previous reports, the parliamentary committee responsible for preparing the complete revision of the Penal Code, which has not yet completed its work, must give consideration to the incorporation into the new text of provisions relating to the prevention of recruitment in Andorran territory of members of terrorist groups operating inside or outside that territory, whether directly or by fraudulent means.

1.7. Please confirm whether article 14 of the Andorran law on extradition is applicable in the case of fugitives who have committed terrorist acts with political motives and, if so, whether that is not a hindrance to the extradition of terrorists who have political motives.

Most extradition treaties currently in force provide that extradition shall not be granted for political offences. To that end, article 14 of the Extradition Organization Act establishes the limitations that must be taken into consideration when authorizing an extradition. Requests for extradition can be refused when the offence in question appears to have political motives.

In that connection, the main problem is the lack of a generally accepted definition of the expression "political offence": it falls to the requested State to interpret it. Andorra has not yet defined the concept of a political offence.

However, on 8 November 2001, the Andorran Government signed the European Convention on the Suppression of Terrorism of 27 January 1977, the essential aim of which is to facilitate the extradition of perpetrators of terrorist acts. Subsequently, on 15 May 2003, Andorra signed the Protocol amending that Convention, the objective of which is to step up the fight against terrorism by means of various measures. The addition of the Protocol makes for an amended Convention that differs significantly from the original, although it retains basically the same aim and is intended to reinforce the initial version. To the end, it lists the offences that the parties undertake not to consider as political offences or as offences inspired by political motives. The Andorran Government intends to ratify the amended Convention at the earliest opportunity, in order to reaffirm its active rejection of terrorism, and to incorporate into its domestic legal order the international provisions relating to the fight against terrorism.

1.8. As indicated on page 12 of the second report, Andorra is negotiating the signing of other bilateral arrangements with regard to the financing of terrorism with Bolivia, the Netherlands, Panama, Poland and the United States of America. The Committee would appreciate a progress report on the negotiations.

The Andorran Government would like to point out that the Money-Laundering Prevention Unit has the authority to cooperate with similar agencies in other countries with regard to the financing of terrorism. In addition, as stipulated in articles 55 and 56 of the Act, cooperation with other similar foreign agencies does

not require the existence of written agreements. To that end, the Unit has acted on cooperation requests from, inter alia, the financial intelligence units of Guernsey, Luxembourg, Monaco, Norway and Switzerland in the absence of pre-existing agreements.

However, some financial intelligence units have requested that cooperation should take place on the basis of a pre-existing bilateral agreement: a standard document prepared by the Egmont Group (known as a memorandum of understanding) through which the various units may cooperate. In that connection, the second supplementary report referred to negotiations between the Andorran Unit and a number of its foreign counterparts. On 17 June 2003, the Andorran Government approved negotiations leading to the signing of such agreements with the financial intelligence units of the following countries: Italy, Liechtenstein, Luxembourg, Mexico, Monaco, the Netherlands, Panama, Poland, Portugal, Romania, the Russian Federation, Slovenia, Switzerland, the United Kingdom, the United States of America, Uruguay and Venezuela. To date, the Unit has signed agreements with Luxembourg, Monaco, Poland and Portugal.

1.9. Subparagraph 3 (d) requires Member States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism. The Committee would appreciate a progress report from Andorra in this regard.

At present, the Andorran Government is devoting all available resources to the ratification of or accession to the principal treaties relating to terrorism in 2004. However, on 14 April 2004, the Andorran Parliament approved Andorra's accession to the following four conventions, in respect of which the instruments of accession may be deposited at either the headquarters of the International Civil Aviation Organization or the Secretariat of the United Nations before summer 2004:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973;
- International Convention against the Taking of Hostages, signed at New York on 17 December 1979;
- International Convention for the Suppression of Terrorist Bombings, signed at New York on 15 December 1997;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.

1.10. As indicated on page 14 of the second report, the Government of Andorra voted in favour of acceding to the Convention on the Prohibition of the Development, Stockpiling and Use of Chemical Weapons and on their Destruction. The Committee has taken note of the intention of the Government of Andorra and would be grateful for a report on its implementation at the earliest opportunity.

Andorra reaffirms its willingness to participate in the efforts undertaken by other States to keep the world free of nuclear, chemical and biological weapons.

As indicated in the second report, on 31 July 2002 during a meeting of the Council of Ministers, the Andorran Government approved Andorra's accession to the Convention on the Prohibition of the Development, Stockpiling and Use of Chemical Weapons and on their Destruction. Following the approval of the General Council, given on 17 October 2002, the Permanent Mission of Andorra to the United Nations deposited Andorra's instrument of accession on 27 February 2003.

Given that article XXI, paragraph 2, provides that the Convention shall enter into force on the 30th day following the date of deposit of the instrument of accession, it entered into force in respect of Andorra on 29 March 2003.